

REMARKS

The last Office Action of May 11, 2005 has been carefully considered. Reconsideration of the instant application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-21 are pending in the application. Claims 1, 6, 7, 11, 13, 14, 17 and 21 have been amended. No claims have been canceled or added. An amendment to the specification has been made to correct an obvious typographic error. No fee is due.

Claims 1-3, 6, 7, 11, 13, 14-17 and 21 stand rejected under 35 U.S.C. §102(b) as being anticipated by European Pat. Appl. No. EP 1094018 (hereinafter Europe '018).

Claims 4, 5, 15 and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Europe '018 in view of U.S. Pat. No. 5,911,306 to Ferrari.

It is noted with appreciation that claims 8-10, 12 and 18-20 are indicated allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. However, applicant wishes to defer amendments to these dependent claims in view of the arguments presented below regarding amended claims 1 and 14.

The rejection of claims 1 and 14 under 35 U.S.C. 102(b) is respectfully traversed.

Applicant has amended claims 1 and 14 to clearly set forth the force-locking or form-fitting engagement of the driving and guiding assembly with a

sidewall of the container in order to advance and guide the container along the transport path. The driving and guiding assembly is thus constructed in such a manner as to interact with a sidewall in order to advance the container. The changes to claims 1 and 14 are merely cosmetic in nature and, in fact, unrelated to patentability as the form-locking or form-fitting engagement for propelling the container have been set forth in original claims 1 and 14. It is, however, believed that the present wording of claim 1 and 14 better encompass the invention as contemplated by the inventors. Thus, claims 1 and 14 have not been narrowed to trigger prosecution history estoppel. Claims 6, 7, 11, 13, 17 and 21 have been amended to make them consistent with the changes to claims 1 and 14, respectively.

Europe '018 describes a transport assembly having a chain conveyor having a plurality of links which have ribs (8) and sliding surfaces (7). Containers (5) rest flatly on the sliding surfaces of the links (col. 2, paragraph [0018] last two lines). In this way, the containers are advanced as the chain conveyor moves. The ribs of the links extend through a curved passageway (slot 9) on the underside of the containers to prevent the containers from shift in a direction transversely of the transport direction (col. 2, paragraph [0019] last three lines). A stoppage of a transport of the containers is realized by a protrusion that can engage lateral recesses (10) of the containers direction (col. 2, paragraph [0019] first four lines)

Thus, unlike the present invention which teaches the use of the sidewalls for forced or form-fitting engagement of the containers by the driving and guiding

assembly, Europe '018 fails to disclose in any way such a forced or form-fitting engagement upon a sidewall for transport. Rather, the opposite is described in Europe '018 as it describes the use of the sidewall for effecting a stoppage of the transport. The ribs of the chain conveyor are merely provided to prevent a displacement of the containers sideways and are not intended to implement a propulsion of the containers.

For the reasons set forth above, it is applicant's contention that Europe '018 neither teaches nor suggests the features of the present invention, as recited in claims 1 and 14.

As for the rejection of the dependent claims, these claims depend on claims 1 and 14, respectively, share their presumably allowable features, and therefore it is respectfully submitted that these claims should also be allowed.

Applicant has also carefully scrutinized the further cited prior art and finds it without any relevance to the newly submitted claims. It is thus felt that no specific discussion thereof is necessary.

In view of the above presented remarks and amendments, it is respectfully submitted that all claims on file should be considered patentably differentiated over the art and should be allowed.

Applicant further submits a certified copy of each of the priority documents under 35 U.S.C. §119(a)-(d).

Reconsideration and allowance of the present application are respectfully requested.

Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully requested that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. If the Examiner feels that it might be helpful in advancing this case by calling the undersigned, applicant would greatly appreciate such a telephone interview.

Respectfully submitted,

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